

### **Remarks**

#### ***Specification***

Page 7 of the specification is amended to include “a computer-readable medium”. Basis for this new text is taken from original claim 42. There is now consistency, and approval is requested.

#### ***Claim Rejections – 35 USC § 112***

It is submitted that the above amendments (and accompanying remarks provided below) deal with the claim rejections raised under 35 USC § 112. More specifically, claims 1 and 16 now recite that a path in the photonic network is selected taking account of the plurality of optically viable photonic paths as part of the topological context when selecting the path. As explained at page 16, lines 21-26, and page 17, lines 4-19, the inventive concept claimed uses of the optically viable paths (denoted “virtual links” as part of the topological context, unlike known path selection algorithms). Thus, the above amendment further clarifies the claimed invention and ample basis for this amendment is provided by the description as filed.

#### ***Claim Rejections – 35 USC § 102***

Claims 1, 8-11, 14-16 and 22 stand rejected under 35 U.S.C. 102(e) as being anticipated by Chaurdhuri et al. (US Patent No. 7,039,009). It is respectfully submitted that this rejection is traversed in view of the claim amendments and the following remarks.

Independent claims 1 and 16 have been amended to include the features of claim 2 and 17, respectively. Thus, claims 1 and 16 now detail how the plurality of optically viable photonic paths is selected.

None of the prior art documents disclose or suggest how the plurality of optically viable photonic paths is selected as recited in new claims 1 and 16. Indeed, the Examiner has indicated that former claims 2 and 17 would be allowable if rewritten to include all the limitations all of the base claim and to overcome the claim rejections under 35 USC § 112. Since new claims 1 and 16, include all the features of former claims 2 and 17, respectively, and have been further amended to deal with the claim rejections raised under 35 USC § 112, said claims are submitted to be allowable.

Claims 2, 8-9 and 17 have been cancelled

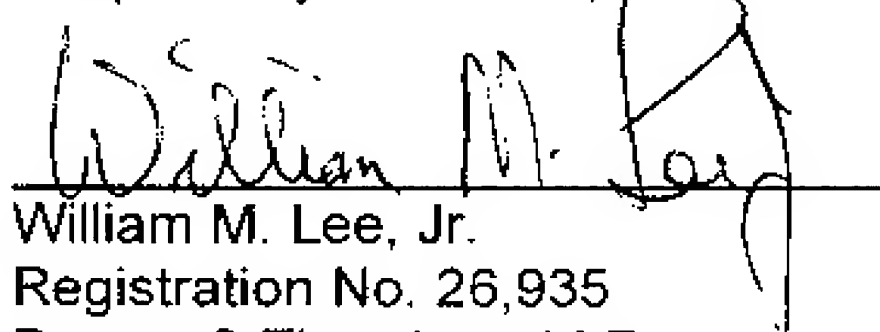
Claims 3, 6-7, 12-13, 18 and 21 have been amended to be brought into conformity with the new independent claims from which they depend.

All dependent claims are considered allowable by virtue of their dependency on the independent claims.

In view of the fact that all of the Examiner's comments have been addressed, further and favorable consideration is respectfully requested.

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Respectfully submitted,

A handwritten signature in black ink, appearing to read "William M. Lee, Jr.", is written over a horizontal line.

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